REMARKS

Claims 1-87 were examined. All claims were rejected. In response to the above-identified Office Action, Applicants amend claim 41 to correct a typographical error. No substantive amendments are requested, and no claims are added or canceled. Reconsideration of the rejected claims in light of the following remarks is requested.

I.   Claims Rejected Under 35 U.S.C. § 112, Second Paragraph

The Examiner rejected claims 68, 69, 71, 72, 74, 75, 77, 78, 80, 81, 83, 84, 86 and 87 under 35 U.S.C. § 112, second paragraph, as indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention. Applicants traverse these rejections.

> When a claim or part of a claim is defined in computer program code, whether in source or object code format, a person of skill in the art must be able to ascertain the metes and bounds of the claimed invention. **In certain circumstances, as where self-documenting programming code is employed, use of programming language in a claim would be permissible because such program source code presents "sufficiently high-level language and descriptive identifiers" to make it universally understood to others in the art** without the programmer having to insert any comments.
>
> *Examination Guidelines for Computer-Related Inventions*, U.S. Patent & Trademark Office, p. 25, emphasis added.

The rejected claims each recite specific XML stream sequences that are used to transmit a specified command or result. For example, claim 68 describes the load application command transmitted from the first device to the host device as an XML stream with a syntax of:

```
<LoadApp>
        <name>(app)</name>
        <bin>
                <size>(value)</size>
                (data)
```

```
        </bin>
    </LoadApp>
```

The Examiner asserts that words such as "(app)" and "(value)" lack clear metes and bounds. However, the XML streams claimed are a form of computer source code, and Applicants contend that a programmer of ordinary skill would recognize that "(app)" would be replaced by the name of the application to be loaded, and "(value)" would be replaced by an integer specifying the size of the binary "(data)" being transmitted in order to produce the claimed XML stream sequence. A programmer would recognize these things because the XML stream is self-documenting, by virtue of the "tags" (words surrounded by angle brackets) before and after each parenthesized word. Similarly, the other XML streams recited in the rejected claims contain tags that describe the allegedly indefinite terms in a manner familiar to contemporary computer programmers. Applicants incorporate by reference the public XML specification into their disclosure, and also provide concrete examples of two request and response XML streams at pp. 26-27. The first example is of the <LoadApp> command of claim 68, where "(app)" is replaced by the string "Application Name" and "(size)" is replaced by the integer, 1234.

Thus, in addition to the ordinary knowledge of XML possessed by programmers, Applicants have provided specific information and examples to ensure that the claims will be understood. For at least these reasons, Applicants respectfully request that the Examiner withdraw these rejections.

II.   Claims Rejected Under 35 U.S.C. § 102(e)

The Examiner rejected claims 1-12, 16-20, 22-27 and 29-87 under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,583,813 issued to Enright *et al.* ("*Enright*"). Applicants believe that *Enright*, which teaches a system and method for capturing, storing, retrieving and managing images of transactions at an automatic teller machine (ATM), fails to disclose *most* of the elements of the

rejected claims, and therefore is an ineffective reference for rejection under § 102(e).

As to claim 1, that claim recites a method comprising a number of steps performed upon a digital camera's connection to a cellular phone. The Examiner identifies several portions of *Enright* that allegedly teach these steps. Applicants respond that the cited portions teach different operations in almost every case.

Specifically, a step recited in claim 1 that is clearly not taught by *Enright* is

> "based on said determined communication information,
> transmitting the executable file of interest from said
> camera to the particular cellular phone."

Enright does not transmit *an executable file* from one device to another. In the portion relied upon by the Examiner, an "image of the document" that is sought to be authenticated is sent from an imaging device to a verification terminal. In other portions of *Enright*, other images, video, or other *data* signals are transmitted. However, these data are also different than an executable file. Applicants are unable to locate any teaching or suggestion of transmitting *an executable file* from one device to another.

For at least this reason, Applicants respectfully submit that *Enright* fails to teach or suggest every limitation of claim 1. Therefore, the Examiner is requested to withdraw the rejection of that claim.

As to claims 2-12, 16-20, 22-27 and 29-40, those claims depend directly or indirectly upon claim 1, and Applicants submit that they are patentable for at least the reason offered in support of claim 1. Applicants respectfully request the Examiner to withdraw the rejections of these claims as well.

The Examiner rejected claims 41-50 for the same reasons set forth in the rejections of claims 1, 2, 4, 6, 8, 31, 34 and 35, because claims 41-50 are said to have similar limitations. In addition to limitations that may be – but are not conceded to be – similar, claim 41 recites:

> "a subsystem, incorporated in the camera, for
> automatically: [...] (ii) uploading the driver of interest
> from the camera to the cellular phone."

The Examiner asserts that *Enright*'s "programmable instructions executed in connection with [an] image server" are a driver to drive hardware. Even assuming this to be true, *Enright* does not teach or suggest that those programmable instructions are uploaded from some device to the image server. For at least that reason, Applicants respectfully submit that *Enright* does not anticipate claim 41, and request that the rejection be withdrawn.

As to claims 42-50, those claims depend directly or indirectly upon claim 41, and are patentable for at least the reasons discussed in support of claim 41. Applicants respectfully request that the Examiner withdraw the rejections of claims 42-50.

The Examiner rejected claims 51-67 for the same reasons set forth in the rejections of claims 1, 2, 4, 6, 8, 31, 32, 34, 35, 38 and 39, because claims 51-67 are said to have similar limitations. Although claim 51 is an independent claim and therefore entirely separate from the preceding claims, it does contain a limitation similar to one discussed with regard to claim 1. Claim 51 recites a method for automated transmission, execution, and manipulation of an executable file of interest originating from a first device comprising:

> "transmitting the executable file of interest from said first
> device to the particular host device."

Applicants noted in connection with claim 1 that *Enright* does not transmit *an executable file* from one device to another. Since claim 51 requires such a transmission, *Enright* fails to anticipate the claim. For at least that reason, Applicants respectfully request that the rejection be withdrawn.

As to claims 52-67, those claims depend directly or indirectly upon claim 51, and are patentable for at least the reasons discussed in support of their base

claim. Applicants respectfully request that the Examiner withdraw the rejections of claims 52-67.

As to claims 68-87, those claims also depend directly or indirectly upon claim 51, and are patentable for at least the reasons discussed in support of that claim. And, although *Enright* mentions using XML in communication messages, it does not teach or suggest the specific XML streams recited in claims 68, 69, 71, 72, 74, 75, 77, 78, 80, 81, 83, 84, 86 or 87. For all of these reasons, Applicants respectfully request that the Examiner withdraw the rejections of claims 68-87.

III.   Claims Rejected under 35 U.S.C. § 103(a)

The Examiner rejected claims 13-15, 21 and 28 under 35 U.S.C. § 103(a) as unpatentable over *Enright* (*supra.*) in view of U.S. Patent Publication 2002/0032027 by Kirani *et al.* ("*Kirani*"). However, the Examiner has not identified, and Applicants have been unable to locate, any teaching or suggestion in *Kirani* that would supply at least the deficiencies in *Enright* noted above. Specifically, *Kirani* fails to disclose transmitting an executable file or driver from one device to another. Thus, even assuming that *Enright*, *Kirani*, or common knowledge at the time of Applicants' invention would have suggested combining the references, the combined teachings do not address deficiencies already noted.

For at least those reasons, Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case that claim 1 and its dependent claims, 13-15, 21 and 28, are unpatentable over *Enright* in view of *Kirani*. Applicants request that rejections of claims 13-15, 21 and 28 be withdrawn.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely claims 1-87, patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207-3800.

Dated: __11/19/04__ , 2004   Respectfully submitted,
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Tina T. Wainright   11-19-04
                                                          Date